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Representing the United States of America

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAN ROUVEN FUECHTENER,

Defendant.

Case No. 2:16-cr-00100-GMN-CWH

Government's Response to Defendant's
Motion for Reconsideration (ECF No. 296)

The United States of America, by and through the undersigned, submits this timely response to the Defendant's *Motion for Reconsideration*. ECF No. 296. The Government respectfully requests that the Court deny the Defendant's motion as the Defendant offers no basis for reconsideration.

"Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence; (2) committed clear error or the initial decision was manifestly unjust; or (3) if there is an intervening change in controlling law." *Frasure v. United States*, 256 F. Supp. 2d 1180, 1183 (D. Nev. 2004) (quoting *School Dist. No. 1J*,

1 *Multnomah County, Or. v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993)). The
2 party seeking reconsideration “must provide a court with valid grounds for
3 reconsideration by: (1) showing some valid reason why the court should reconsider
4 its prior decision, and (2) setting forth facts or law of a strongly convincing nature to
5 persuade the court to reverse its prior decision.” *Id.*

6 The Defendant has failed to provide any basis for the Court to reconsider its
7 prior decision, aside from his general disagreement with the Court’s determination.
8 Therefore, the Court should deny the motion.

9 Should the Court not deny the motion based on the motion to reconsider
10 standard, the Government respectfully requests that the Court order specially
11 appearing counsel to set forth the actual arguments to which the Government should
12 respond. After the Defendant filed the original motion to release funds, ECF No. 285,
13 the Government responded pointing out the legal failings of the motion. ECF No.
14 289. Then, in reply, recognizing that the entire legal basis of his argument was
15 incorrect, the Defendant offered a whole new set of arguments in violation of this
16 Court’s local rules. ECF No. 291. The instant motion for reconsideration does not set
17 forth any argument explaining which arguments the Defendant would like the Court
18 to reconsider. ECF No. 296. Accordingly, the Government has been unable to respond
19 to the arguments raised in the original reply. The Government requests the ability
20 to meaningfully respond before the Court rules on the merits.

21 Finally, the Government notes that the Court’s original decision was correct.
22 Magistrate Judge Hoffman strongly admonished specially appearing counsel for
23

1 potentially creating a conflict between Ms. Connolly and the Defendant by the filing
2 of the original motion. The Defendant took Judge Hoffman's admonishments to
3 heart, implicitly withdrew his request, and began working with Ms. Connolly on his
4 sentencing arguments.

5 Due to the procedural posture at this juncture, it is unclear from Ms.
6 Connolly's second motion to withdraw as counsel, and Ms. Connolly's
7 representations that specially appearing counsel did not communicate with her prior
8 to filing this motion, whether this most recent motion for reconsideration has been
9 sanctioned by the Defendant or was filed without his knowledge and consent.
10 Government counsel does not intend to cast aspersions on Ms. Connolly or specially
11 appearing counsel, but the answers to these questions are of imminent importance
12 to the Court's decision. Accordingly, the Government respectfully requests that the
13 Court ascertain the impetus of the request.

14 For the reasons stated above, the Government respectfully requests that this
15 Court deny the Defendant's motion.

16 DATED this 27th day of September, 2018.

17 Respectfully submitted,

18 DAYLE ELIESON
19 United States Attorney

20 //s//
21 ELHAM ROOHANI
22 Assistant United States Attorney
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CERTIFICATE OF SERVICE

I certify that I am an employee of the United States Attorney's Office. A copy of the foregoing was served upon counsel of record, via Electronic Case Filing (ECF).

DATED this 27th day of September, 2018.

/ s / Elham Roohani

ELHAM ROOHANI
Assistant United States Attorney